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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-201446

DATE: June 4, 1981

MATTER OF: Public Law Education Institute

DIGEST:

Protest against solicitation's late proposal provision is untimely and will not be considered on merits, since it was not filed prior to closing date for receipt of initial proposals as required by Bid Protest Procedures.

Public Law Education Institute (PLEI) protests that the General Services Administration (GSA) should not have rejected as late the PLEI proposal offering the Military Law Reporter under multiple-award Federal Supply Schedule request for proposals (RFP) No. BO/FS-B-00192 for lawbooks and tax and reporting periodicals for the 1981 fiscal year.

The basis for the PLEI protest is that the RFP wrongfully excluded from the late proposals clause in article 8 of standard form 33A the late proposal exception which allows consideration of a late proposal if it is the only proposal received. The purpose of the exclusion is to establish a firm cutoff date for the receipt of proposals. The late proposals clause was incorporated into the RFP by reference and PLEI contends that it should not be charged with knowledge of the exclusion, since the exclusion was only referred to by subarticle number and PLEI was not furnished standard form 33A when it requested it prior to the submission of the proposal.

Late proposal provisions incorporated by reference into a solicitation are binding and offerors are charged with constructive knowledge of their contents. Rally Racks, Division of Rally Enterprises, Inc.--Reconsideration, B-200159.2, October 30, 1980, 80-2 CPD 330. Further, our Bid Protest Procedures provide that a protest based

[Protest of the late proposal for lawbooks]

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upon an alleged impropriety in any type of solicitation which is apparent prior to bid opening or the closing date for receipt of initial proposals must be filed prior to bid opening or the closing date for receipt of initial proposals. 4 C.F.R. § 20.2 (b)(1) (1980). Therefore, it was incumbent upon PLEI to protest the late proposals provision in the RFP prior to the time set for the receipt of proposals. While PLEI contends that it was unable to protest before the RFP closing date because GSA failed to comply with the PLEI request for standard form 33A prior to the submission of the proposal, we note that PLEI was not precluded by that failure from readily ascertaining the contents of standard form 33A, since the form, a part of the Federal Procurement Regulations, is published in 41 C.F.R. § 1-16.901-33A (1980).

Accordingly, the PLEI protest is untimely and will not be considered on the merits.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel